

Message Text

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FM SECSTATE WASHDC
TO USMISSION GENEVA IMMEDIATE

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STADIS//////////
FOR AMBASSADOR RICHARDSON

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: TESTIMONY BEFORE WAYS AND MEANS, APRIL 13

REF: STATE 87918

1. FOLLOWING IS DRAFT OF TESTIMONY THAT HAS BEEN
FORWARDED AD REFERENDUM TO OMB FOR CIRCULATION FOR AGENCY
CLEARANCE. TREASURY (JUNZ) TAKES MARKED EXCEPTION TO THE
LAST PARAGRAPH AND IS STILL INTENT ON GETTING AN OVERALL
TAX PACKAGE TO WAYS AND MEANS BEFORE THE HEARING, MAKING
ALL REVENUE SHARING DEDUCTIBLE (BASED ON TREASURY
"ASSUMPTION" THAT LOS REVENUE SHARING WILL PARALLEL
LEGISLATIVE REVENUE SHARING IN ITS MODESTY). INCIDENTALLY,
OTHER WITNESSES AT THE HEARING WILL INCLUDE TREASURY,
INDUSTRY, AND PROBABLY BINGHAM AND FRASER.

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2. BEGIN TEXT:

MR. CHAIRMAN:

MAY I BEGIN BY THANKING YOU FOR THIS OPPORTUNITY TO APPEAR
BEFORE YOU AND PRESENT OUR VIEWS ON THE REVENUE SHARING
PROPOSAL THAT HAS BEEN SUBMITTED BY THE ADMINISTRATION IN

CONNECTION WITH DEEP SEABED MINING LEGISLATION CURRENTLY BEING CONSIDERED IN THE HOUSE OF REPRESENTATIVES -- H.R. 3350. AFTER ALMOST THREE WEEKS OF STRICTLY PROCEDURAL WRANGLING AT AN EIGHT-WEEK LAW OF THE SEA NEGOTIATING SESSION, I WAS NATURALLY RELUCTANT TO LEAVE GENEVA AS SUBSTANTIVE DISCUSSIONS GET UNDER WAY. BUT I DID WANT BADLY TO APPEAR IN PERSON TO TESTIFY ON THE IMPORTANT ISSUE BEFORE YOU. MOREOVER, MR. CHAIRMAN, I WANT TO EXPRESS TO YOU MY PERSONAL GRATITUDE, AND THAT OF THE ADMINISTRATION, FOR YOUR GENEROSITY IN FINDING THE TIME TO CONSIDER OUR PROPOSAL IN AN IMPOSSIBLY CROWDED SCHEDULE.

MR. CHAIRMAN, THE UNITED STATES HAS BEEN NEGOTIATING WITH SOME 150 OTHER COUNTRIES FOR ALMOST FIVE YEARS IN AN EFFORT TO REACH AGREEMENT ON A LARGE NUMBER OF ISSUES OF PRIME IMPORTANCE TO OUR NATIONAL WELFARE AND SECURITY -- SECURITY IN ITS BROADEST AND TRUEST SENSE, TO ENCOMPASS NOT ONLY MAXIMUM MANEUVERABILITY FOR OUR NAVAL AND AIR FORCES BUT, ALSO, THE SECURITY THAT ATTACHES TO ENVIRONMENTAL PROTECTIONS, FREEDOM OF NAVIGATION FOR TRADE, AND ACCESS TO THE LIVING AND NON-LIVING RESOURCES OF THREE QUARTERS OF THE EARTH'S SURFACE. AMONG THE LATTER WE COUNT THE MINERAL RESOURCES THAT HAVE THUS FAR LAIN UNDISTURBED ON THE DEEP SEABED BEYOND OCEAN AREAS OF NATIONAL JURISDICTION, SPECIFICALLY THE SMALL BROWN AND LIMITED OFFICIAL USE

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BLACK NODULES CONTAINING EXPLOITABLE OR POTENTIALLY EXPLOITABLE QUANTITIES OF NICKEL, COBALT, MANGANESE, AND COPPER.

EIGHT YEARS AGO, THE UNITED STATES JOINED WITH OTHERS AT THE UNITED NATIONS IN DECLARING THAT THESE RESOURCES CONSTITUTE THE COMMON HERITAGE OF MANKIND. WE HAVE NEVER CONSIDERED, NOR DO WE NOW CONSIDER, THAT PRINCIPLE TO BE A MERE CLICHE. RATHER, IF PERMITTED TO ASSUME REALISTIC FORM, IT CAN GIVE EXPRESSION TO THE LEGITIMATE DEMANDS OF THE INTERNATIONAL COMMUNITY FOR A CHANCE TO SHARE IN THE PROFITS THAT EXPLOITATION OF DEEP SEABED RESOURCES WILL ONE DAY PRODUCE. THE CONDITION JUST STATED IS CRUCIAL TO THE CONCEPT OF THE COMMON HERITAGE, WHICH OTHERWISE WOULD INDEED REMAIN A CLICHE. I AM SORRY TO REPORT THAT THE NEGOTIATING TEXT NOW BEFORE THE LAW OF THE SEA CONFERENCE VIRTUALLY INSURES THAT SEABED MINING UNDER ITS AUSPICES WILL NOT TAKE PLACE, SO GREAT ARE THE DISINCENTIVES TO INVESTMENT WHERE FORMIDABLE INVESTMENT IS REQUIRED. IN THE TIME REMAINING, I AND OUR DELEGATION WILL SPARE NO EFFORT TO WIN THE COOPERATION NEEDED TO EXCISE THE DISINCENTIVES AND CONSTRUCT A TREATY THAT WILL

ENCOURAGE EXPLOITATION OF DEEP SEABED RESOURCES BY THE ONLY ENTITIES POSSESSED OF THE REQUISITE COMBINATION OF

FINANCIAL AND TECHNOLOGICAL STRENGTH. I SPEAK, OF COURSE, OF THOSE FEW INTERNATIONAL CONSORTIA ACTIVELY PREPARED TO TAKE THE RISKS UNDER REASONABLE CONDITIONS AND IN WHICH AMERICAN FIRMS PLAY SO PROMINENT A PART.

TRY AS WE MAY, SUCCESS IS FAR FROM ASSURED. AMERICAN FIRMS HAVE ALREADY INVESTED CONSIDERABLE TIME AND MONEY IN THE DEVELOPMENT OF THE TECHNOLOGY NEEDED FOR COMMERCIAL RECOVERY OF MANGANESE NODULES FROM THE DEEP SEABED. IT IS AN IRRESPONSIBLE GOVERNMENT THAT WOULD NOT FACILITATE THEIR EXERCISE OF HIGH SEAS FREEDOMS IN PRO-LIMITED OFFICIAL USE

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CEEDING AT A NORMAL PACE TO THE EXPLOITATION STAGE. IT IS THIS OBLIGATION THAT HAS MOTIVATED THE ADMINISTRATION TO SUPPORT CONGRESS IN MOVING FORWARD WITH DEEP SEABED LEGISLATION. NATURALLY, WE HAVE STRONG VIEWS ON THE CONTENT OF SUCH LEGISLATION, AND WE HAVE MADE THEM KNOWN IN TESTIMONY BEFORE OTHER COMMITTEES OF BOTH HOUSES OF CONGRESS. IN THE INTERESTS OF AVOIDING REPETITION, I WOULD LIKE TO FOCUS HERE ON REVENUE SHARING, SO CLOSE TO THE HEART OF THE COMMON HERITAGE PRINCIPLE OF WHICH I SPOKE, AND AN ESSENTIAL ELEMENT IN ADMINISTRATION SUPPORT OF LEGISLATION.

THE UNITED STATES HAS PROPOSED AT THE LAW OF THE SEA CONFERENCE A DUAL, OR PARALLEL, SYSTEM OF SEABED EXPLOITATION WHEREBY HALF OF IDENTIFIED MINE SITES WOULD BE EXPLOITED BY STATES OR PARTIES SPONSORED BY STATES AND HALF EXPLOITED BY, OR HELD IN RESERVE FOR, AN INTERNATIONAL SEABED AUTHORITY ON BEHALF OF THE DEVELOPING COUNTRIES. STATES AND PARTIES SPONSORED BY STATES WOULD, MOREOVER, CONTRIBUTE A PORTION OF THEIR EARNINGS TO THIS AUTHORITY, AGAIN FOR THE BENEFIT OF DEVELOPING COUNTRIES. FROM WHAT I HAVE SAID ABOUT LACK OF PROGRESS IN THE NEGOTIATIONS, YOU CAN GUESS THAT NEITHER THE NATURE NOR THE DIMENSIONS OF SUCH CONTRIBUTIONS HAVE YET TAKEN FORM AT THE CONFERENCE. NEVERTHELESS, WE CLING TO THE HOPE THAT REASONABLE AND WIDELY ACCEPTABLE TERMS AND CONDITIONS CAN BE WORKED OUT. WITH THAT HOPE IN MIND, AND TO MAKE LEGISLATION CONSISTENT WITH AND SUPPORTIVE OF THE PRINCIPLES UNDERLYING OUR LAW OF THE SEA POSITIONS, WE WANT STRONGLY TO INCLUDE IN LEGISLATION A PROVISION THAT MANDATES THE SETTING ASIDE OF FUNDS, PAID BY MINING COMPANIES, FOR CONTRIBUTIONS TO AN INTERNATIONAL SEABED AUTHORITY THAT MAY BE CREATED BY A TREATY THAT EVENTUALLY LIMITED OFFICIAL USE

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ENTERS INTO FORCE WITH RESPECT TO THE UNITED STATES. WE BELIEVE THAT THE PROPOSAL BEFORE THIS COMMITTEE MEETS THAT OBJECTIVE.

THE PROPOSAL CALLS FOR PAYMENTS AMOUNTING TO 3.75 OF THE IMPUTED VALUE OF THE HARD MINERAL RESOURCES RECOVERED BY A PERMITTEE, WITH THAT VALUE COMPUTED AT 20 OF THE PROCEEDS OF SALES OF THE METALS OR MINERALS DERIVED FROM THOSE RESOURCES. THE 20 FIGURE RELATES TO THE ESTIMATED PROPORTIONAL SHARE OF THE COSTS OF THE MINING PROCESS ITSELF, TO THE TOTAL DEVELOPMENT COSTS INVOLVED IN MINING, TRANSPORTATION, PROCESSING, AND MARKETING. THIS IS CONSISTENT WITH OUR LAW OF THE SEA NEGOTIATING POSITION THAT WOULD LIMIT REVENUE SHARING TO THE MINING PHASE ALONE.

FINALLY, IF I MAY, I WILL TRY TO ANTICIPATE SOME QUESTIONS ABOUT OUR VIEWS ON THE APPROPRIATE TAX TREATMENT TO BE ACCORDED THE REVENUE SHARING PAYMENTS ENVISAGED IN THE PROPOSAL AT HAND. THE ISSUE, OF COURSE, GOES TO THE QUESTION OF THE PROFITABILITY OF DEEP SEABED MINING AND, IN THAT CONNECTION, THE ROLE PLAYED BY THE TAX LIABILITY OF FIRMS ENGAGED IN MINING. IT IS OUR VIEW THAT THE PAYMENTS CALLED FOR IN THE PROPOSAL ARE SUFFICIENTLY MODEST AND OF SUCH A NATURE AS TO QUALIFY THEM AS A DEDUCTIBLE BUSINESS EXPENSE FOR US TAX PURPOSES. I HASTEN TO ADD THAT THE ADMINISTRATION RESERVES ITS POSITION ON THE PREFERRED TAX TREATMENT OF REVENUE SHARING PAYMENTS THAT MAY BE CALLED FOR IN A NEGOTIATED LAW OF THE SEA TREATY, GIVEN THE STILL INDETERMINATE NATURE OF THOSE PAYMENTS AND THEIR RELATIONSHIP TO OTHER RELEVANT PROVISIONS OF A TREATY.

MR. CHAIRMAN, I THANK YOU AGAIN FOR THE CONSIDERATION YOU HAVE SHOWN THE ADMINISTRATION IN THE COMMITTEE'S TIMELY ATTENTION TO THIS MATTER. END TEXT. VANCE

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